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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

SUBJECT: Potential Conflict of Interest
Michael Towle

DATE: 9-30-92

FROM: * Cecil Rodrigues *CR*
Senior Assistant Regional Counsel

TO: File

Attached is a Memorandum I recieved from Philip Yeany concerning the conflict of interest allegations against Michael Towle. Mr. Towle is the Remedial Project Manager for the C&D Recycling Site. Mr. Towle's father worked for Western Electric and New Jersey Bell former subsidiaries of AT&T. AT&T is a potentially responsible party at the Site.

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
841 Chestnut Building
Philadelphia, Pennsylvania 19107

SUBJECT: Conflicts of Interest

DATE: 9-24-92

FROM: Phil Yeany *PY*

TO: Cecil Rodrigues

I have reviewed EPA's and the Office of Government Ethics ("OGE") regulations concerning conflicts of interest and the loss of impartiality. My understanding is that a citizen group is concerned about one of our employees working on a site when that employee's father owns stock in a PRP's parent corporation. In addition our employee's father used to be employed by another subsidiary of the parent corporation. The father does not have and has not had any role in the disposal of wastes at the site or the cleanup of the site.

EPA employees are subject to two sets of overlapping requirements dealing with conflicts of interest. One is statutory and the other is regulatory. The statutory requirement, 18 U.S.C. § 208(a), does not apply in this situation because the statute just relates to the employee and his/her immediate family, that is, the employee's spouse and minor children.

OGE has just adopted new regulations for standards of conduct for federal employees. Although these new regulations do not take effect until February 3, 1993, I think that are useful as guidance as to how to handle questions of an employee's impartiality.¹ EPA regulations require EPA employees to act with impartiality in their official actions, 40 C.F.R. § 3.103(d)(3). The OGE regulations, Subpart E, deal with impartiality in performing official duties. Section 2635.502(e) for the subpart provides in part as follows:

...[A]n employee shall not participate in a particular matter involving specific parties when he or agency designee has concluded ... that the financial interest of a

¹Subpart D of the regulations, 5 C.F.R. § 2635.401 et seq., is the regulatory implementation provision for 18 U.S.C. § 208(a). Like the statute, it just applies to employee and his/her immediate family.

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member of the employee's household, or the role of a person with whom he has a covered relationship, is likely to raise a question in the mind of a reasonable person about his impartiality.

A covered relationship is defined by 5 C.F.R. § 2635.502(b)(ii) to include a relative with whom the employee has a close personal relationship. Assuming that our EPA employee has a close personal relationship with his father, to be disqualified by 5 C.F.R. § 2635.502(e) the employee's father must be involved in the matter at issue here. Because the father does not have a role in this matter and has not had a role in the past, § 2635.502(e) does not prohibit the employee's participation in the cleanup.